**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**

Chapter VIII, Rule 32(2) (b)
Description of case

**Writ Petition No. 839 of 2006 (M/B)**

Date of decision: 17th July, 2006

A.F.R. (Approved for Reporting)
~~Not approved for Reporting~~

Date 17.7.2006

Initials of Judge

None: Bench Reader will attach this at the top of first page of the judgment when it is put up before the Judge for signature.

**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**

**Writ Petition No.839 of 2006 (M/B)**

1. (a) Abdul Wali Khan S/o Abdul Jalil Khan.
   (b) Mohammad Zahir S/o Sri Saidur Rehaman,
   R/o Krishi Farm No. 9, Pratappur,
   Tehsil Khatima, Distt. Udham Singh Nagar.
2. Sri Puran Singh S/o Sri Gagan Singh,
   R/o Sakin Kichha, Pulsirauli Kalan,
   Kiccha, District Udham Singh Nagar.
3. Smt. Surendra Kaur W/o Sri Harmender Pal Singh,
   R/o village Kunwarpur, Sisaiya, Sitarganj,
   District Udham Singh Nagar. ……. Petitioners

Versus

1. State of Uttaranchal,
   through Secretary, Ministry of Transport Appellate Tribunal,
   Uttaranchal.
2. The Regional Transport Authority,
   Kumaun Region, Haldwani, District Nainital.
3. Abdul Salim Khan S/o Sri Abdul Jalil Khan,
   106 Ashraf Khan Mohalla,
   Pilibhit.
4. Sadanand Azad, Gokul Nagar,
   Kiccha, Udham Singh Nagar.
5. Gurvinder Singh, Pratappur,
   Tehsil Khatima,
   District Udham Singh Nagar. …….. Respondents

……

Mr. C.D. Bahuguna, Advocate for the petitioners.
Mr. B.D. Tewari, Chief Standing Counsel for the respondents Nos. 1 & 2.
None for respondents Nos. 3 to 5.

**JUDGMENT**

**Coram: Hon'ble Rajeev Gupta, C.J.**
**Hon'ble Prafulla C. Pant, J.**

**RAJEEV GUPTA, C.J. (Oral)**

Mr. C.D. Bahuguna, Advocate for the petitioners.

Mr. B.D. Tewari, Chief Standing Counsel for the respondents Nos. 1 & 2.

None for respondents Nos. 3 to 5.

They are heard on admission.

2. The petitioner have filed this writ petition for the following reliefs:

> "I. Issue a writ, order or direction in the nature of Certiorari quashing the advertisement issued by the respondent No.2 published in the issue of the News Paper 'Amar Ujala' dated 04.05.2006, ***Annexure-1*** to this petition.
>
> II. In the alternative, if the first prayer of the petitioners, is not accepted, then Hon'ble court may be pleased to issue a writ, order or direction in the nature of Mandamus commanding the respondent nos. 1 & 2 not to consider the applications of more than 8 persons, as explained in para 25 and 26 of the writ petition, for grant of stage carriage permits for the routes-Pulbhatta-Sitarganj-Nanak Sagar and Khatima-Mala Ghat.
>
> III. Issue any other writ, order or direction, as this Hon'ble Court may deem fir and proper in the facts and circumstances of the case.
>
> IV. Award cost of petition to the petitioners."

3. The petitioners have impugned the notice (Annexure No.1), whereby it has been communicated to all concerned that all the 82 applications submitted in the year 1995 for grant of permit on the routes Pulbhatta-Sitarganj-Nanak Sagar and Khatima-Mala Ghat shall be considered in accordance with the directions of the State Transport Appellate Transport, U.P., Lucknow in the next meeting of the Regional Transport Authority, Kumaun Division, Haldwani.

4. The petitioners' main plea is that in spit of the stay orders passed by High Court of Allahabad in the writ petitions challenging the order of the State Transport Appellate Tribunal, respondents Nos. 1 & 2 proceedings further in compliance of the directions contained in the order of the Appellate Tribunal.

5. The petitioners had earlier filed a writ petition [Writ Petition No. 1965 (M/B) of 2001], which came to be disposed of with the following order:

> "1. Since the left of the permits was for five years w.e.f. 22.04.1995, there would be no question of the petitioners being allowed to run their buses on the basis of the said permits beyond 22.04.2000 under any circumstances. It is not their claim that the said permits were renewed on 22.4.2000. It is, therefore, mystery as to how the petitioners are still allowed to continue their permits for more than five years. We do not know as to what happened to the grant of permits to others because it is only two and three persons, who have come up against the order of Tribunal. We do not see any justification whatsoever to continue the stay. The stay order stands vacated.
>
> 2. The petition is declared infructuous. The State Government is directed now to take exercise of distribution of the permits as per the direction of the said Tribunal.
>
> 3. The petition is disposed of as infructuous.

6. The notice dated 28.04.2006 issued to the petitioners Nos. 1(a) and 1 (b) by the Regional Transport Officer, Haldwani makes it clear that in compliance of the above-quoted judgment dated 07.03.2005 passed in the petitioners' earlier Writ Petition No. 1965 of 2001 (M/B), all the 82 applications submitted for the above-mentioned routes are to be considered by the Regional Transport Authority in compliance of the directions contained in the order passed by State Transport Appellate Tribunal, Lucknow.

7. The impugned notice (Annexure No.1), when examined in the light of the judgment dated 07.03.2005 passed by the High Court of Uttaranchal in petitioners' earlier Writ Petition No. 1965 of 2001 (M/B) and the contends of the notice (Annexure No.10), it becomes writ large that the notice (Annexure No.1) has been issued by respondents Nos. 1 & 2 in compliance of the directions contained in the judgment passed by this Court in the petitioners' earlier Writ Petition No.1965 of 2001 (M/B).

8. In this view of the matter, the petitioners' plea that the impugned action of the respondents is bad in law as the respondents are proceedings further in violation of the stay passed in other

writ petitions cannot be accepted, as respondents Nos. 1 & 2 are duty bound to carry out the directions contained in the judgment dated 07.03.2005 passed in petitioners' earlier Writ Petition No. 1965 of 2001 (M/B).

9. In the view of the matter, we do not find any illegality in the impugned notice (Annexure No.1) and the exercise proposed to be undertaken by respondents Nos. 1& 2 in compliance of the directions contained in the judgment dated 07.03.2005 passed in Writ Petition No. 1965 of 2001 (M/B).

10. The writ petition, therefore, is liable to be dismissed and is, hereby, dismissed summarily.

11. Consequently, CLMA No. 8860 of 2006 also stands dismissed.

**(Prafulla C. Pant, J.)** 17.07.2006

**(Rajeev Gupta, C.J.)** 17.07.2006

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